

REMARKS/ARGUMENTS

A total of 5 claims are now pending in the present application. The foregoing amendments are presented in response to the Final Office Action mailed May 18, 2007, and the Advisory Action mailed August 6, 2007, wherefore reconsideration of this application is requested.

By way of the above-noted amendments, new independent claim 25 has been introduced, which incorporates the subject matter of previous claims 1, 2 and 6, which have thus been cancelled to avoid redundancy. Claims 3-5 and 7 have been amended to depend from new claim 25.

Claim 12 has been cancelled as being drawn to a non-elected species. In particular, in the Office Action of August 15, 2006, The Examiner made a restriction requirement under 35 U.S.C. § 121, in which the claims were divided into two groups, namely: Group I, incorporating claims 1-7 and 12, and Group II, incorporating claims 8-11 and 13-24. In Applicant's response filed September 15, 2006, Applicant elected the Group I claims, and cancelled claims 8-11 and 13-24. In the above-noted claim grouping, claim 12 was included in Group I, by virtue of its dependency from claim 6. However, claim 12 is drawn to a system (as opposed to the transmitter of claim 6), and defines elements of the network monitor in terms that reflect the language of original claim 8. The person of ordinary skill in the art will recognise that the network monitor is a separate component from that of the transmitter of claims 1-7, as is clearly defined in the system of claim 8. Accordingly, it is submitted that claim 12 was included in claim group I by virtue of its erroneous dependence on claim 6. In order to correct this error, Applicant has cancelled claim 12 from the present application, as being drawn to the species of non-elected claim group II, as defined in the Office Action of August 15, 2006. Applicant reaffirms its right to file a divisional application drawn to the subject matter of non-elected claims 8-24 at any time prior to issuance of a patent in the present case.

In preparing the above-noted claim amendments, careful attention has been paid to ensure that no new subject matter has been introduced as a result of the foregoing amendments.

Referring now to the text of the Office Action:

- claims 1-5 stand rejected under 35 USC 102(a) and (e) as unpatentable over the teaching of United States Patent No 6,504,636 (Seto et al.); and;
- claims 6, 7 and 12 stand objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As an initial matter, Applicant appreciates the Examiner's indication of allowable subject matter in claims 6, 7 and 12. The Examiner's claim rejections are believed to be fully traversed by way of the above-noted claim amendments, and further in view of the following comments.

Allowable Claims

New claim 25 incorporates the subject matter of claims 1, 2 and 6. Since claims 6 has previously been indicated as defining patentable subject matter, new claim 25 is believed to be allowable. Claims 3-5 and 7 have been amended to depend from new claim 25, and thus are believed to also be allowable.

In light of the foregoing, it is believed that the presently claimed invention is now in good condition for allowance. Early action in that respect is courteously solicited.

If any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this response, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an

extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 02-2135.

Respectfully submitted,

By / George R. Repper /
George R. Repper
Attorney for Applicants
Registration No. 31,414
ROTHWELL, FIGG, ERNST & MANBECK, P.C.
Suite 800, 1425 K Street, N.W.
Washington, D.C. 20005
Telephone: (202)783-6040